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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/654,668

09/04/2003

Brian Rosenfeld

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EXAMINER

MORGAN, ROBERT W

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

05/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/654,668

Applicant(s)

ROSENFELD ET AL.

Examiner

Robert W. Morgan

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3626

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 2/22/07 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☒ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: N/A.  
Claim(s) objected to: N/A.  
Claim(s) rejected: 9-39.  
Claim(s) withdrawn from consideration: N/A.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_  
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 3/22/07 and 4/5/07  
13. ☒ Other: See Attachment.

  
Robert Morgan  
Patent Examiner  
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Continuation of 3. NOTE: The proposed amended features of "...monitoring patient...comprises stored patient data elements", "...rule continuously" and "...occurs in an automated...24 hours per day 7 days per week", in claims 9 and 25, require further search and consideration as they change the scope of the invention from that previously claimed.

***Advisory Action***

The terminal disclaimers filed 2/22/07 and 3/15/07 have been acknowledged, however has not placed the application in condition for allowance.

In the remarks, Applicants argue in substance that, (1) that a common database by multiple clinic personnel and physician does not teach a “remote command center” and the “trends” described by Levine does not equate to creating a rule for a patient and searching for patterns of data and to produce an output indicative of a change in the medical condition of a patient as recited in claim 9. The Examiner respectfully submits that Lavin et al. is relied for teaching that each workstation (14, Fig. 1) that can either being fixed or a portable computer such as the IBM ThinkPad capable of communicating with a network server (12, Fig. 1) (see: column 4, lines 43-55). In addition, Lavin et al. teaches each workstation (14, Fig. 1) has memory (20, Fig. 1) connecting to the network server (12, Fig. 1) (see: column 4, lines 40-42). The Examiner considers the workstation, which is either portable or fixed and includes memory to be the remoter command center. Levine is relied on for teaching a microcard reader (11, Fig. 1) and keyboard selection terminal (12, Fig. 1) used to compare and detect any “trend” analysis from tests performed on the patient (see: column 5, lines 46-51). In addition, Levine teaches that the individual readings and test results can be variously mathematically processed to obtain differences, percentage changes, ratios, average readings, and others to assist in “trend” analysis of the medical condition of that individual (see: column 8, lines 17-23). This allows the physician to detect both long and short term changes in any measured condition of the individual (see: column 8, lines 26-28), suggesting that mathematical rules are created and applied to individual readings and test results to produce an output that is displayed to the physician to

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determine if intervention or help should be provided to the patient. Thus, the proper combination of the applied references would be the incorporation of Levine's system for creating and applying rules to patient data to produce an output report to the physician within the system and method for managing patient medical records including a remote command center or workstation as taught by Lavin.

Applicant's remarks appear to rely on features that have not been entered as of the present communication and other arguments merely rehash issues addressed in the Final Rejection mailed 12/7/06, and incorporated herein. Thus, the finality of the previous Office Action is maintained.